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June 8, 2017

Federal Communications Commission
Office of the Secretary
445 12th Street SW., Room TW-A325
Washington, DC 20554

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Re: Comments To Notice Of Inquiry
WC Docket No. 17-84; FCC 17-37

Gentlemen:

On behalf of the Board of Chosen Freeholders of the County of Cumberland, the following comments are submitted to the Federal Communications Commission with respect to the Notice of Inquiry published on or about May 11, 2017 in the Federal Register, Volume 82, No. 90 with regard to accelerating broadband deployment by removing barriers to infrastructure investment.

The principal concerns of the County of Cumberland which has taken a leading role on behalf of South Jersey communities respecting the deployment of broadband, falls into two (2) categories. First, the County endorses efforts at the Federal level to treat broadband as regulated telecommunications in order to induce deployment and further development of the most up-to-date telecommunications in our region. Historically, the southern areas of New Jersey, principally the southern three (3) counties of Cape May, Cumberland and Salem, along with undeveloped interior areas of the Pine Barrens, have been underserved by the major telecommunications providers. These providers have resisted developing and deploying

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broadband internet and telecommunications due to cost factors while the more urban, developed and affluent areas have received more prompt and highly developed deployment of telecommunications facilities. As a result, these areas have suffered from inadequate service relatively speaking along with deterioration of existing landline copper infrastructures. Hence, internet deployment and internet speeds are significantly below the service enjoyed by other communities. Therefore, the County applauds and encourages efforts at the Federal level to encourage and spur development of broadband. Most importantly, the underserved communities and areas of our region need Federal assistance and intervention to assure that high speed universal coverage, that is equal to broadband service being provided elsewhere, is also made available to these communities. It is something too important to the education of our children, the development and retention of businesses and industries and economic growth to ignore this need. Federal assistance to providers, to public entities or agencies, public and private consortiums that can be induced to develop broadband infrastructure in order to meet this deficit should be encouraged and supported. Therefore, the County of Cumberland supports Federal involvement in intervention to encourage and even require deployment of high speed broadband.

Second, the County of Cumberland and related communities within the South Jersey region with which it has been working to try to help develop and deploy high speed broadband telecommunications, one is also very concerned that the thrust of the proposed rule making and notice of inquiry is narrowly focused upon a perception that local restrictions in public rights-of-way to the deployment of telecommunications is adversely impacting and frustrating providers from rolling out high speed wire line broadband. Generally speaking, this is inaccurate. In the

southern areas of New Jersey, if fiber is being deployed in the rights-of-way, it is being encouraged, but the major providers are either resisting or refusing to provide wire line service due to the cost considerations. Instead, these providers in recent instances have sought to deploy wireless transmission facilities in public rights-of-way based on their claim that they are utilities, they are entitled to use the rights-of-way and that they are entitled to use them at no cost. This presents a number of problems to our communities. First, the deployment of wireless services does not generally suffice to meet high speed broadband needs and such services are more weather dependent, of lower quality, less reliable and are not hardwired into homes, businesses, schools and government facilities. Therefore, they do not have the same kind of speed, reliability or connectivity that is generally necessary to facilitate business growth and development, educational needs of our schools and students and, in many instances, the lack of these facilities has caused property values to be depressed, sales of residences and businesses have been undermined and economic growth retention has been dampened. Therefore, allowing wireless telecommunications providers to have access to rights-of-way in our area serves as a means by which to provide broadband service that is less reliable, less efficient, is perhaps more costly, and is less effective to meet the needs of businesses, educational institutions, medical facilities and government. Economic growth and retention are thereby undermined as compared to other regions that have high speed wire line telecommunications broadband. To the extent that the FCC would pre-empt local control over rights-of-way in order to encourage the deployment of wireless broadband within public rights-of-way may very well (and the fear is that

it will) actually reduce the likelihood of high speed wire line development in our communities all the attendant deficits that will flow therefrom, are more likely to occur.

In addition, public rights-of-way were generally created in order to allow transportation and other public utility needs to have pathways from one area to another and the establishment of fixtures within the rights-of-way is a local concern from both safety and esthetic standpoints and the need to have control over that should be preserved at the local level. The FCC, we believe, is ill equipped to make appropriate judgments and to consider applications in connection with safety and aesthetics of structures within rights-of-way that could create safety hazards and otherwise disfigure the landscape.

Presently, the County of Cumberland uses road opening permits within rights-of-way to allow the establishment and erection of structures within the rights-of-way. There has been no effort to impede the deployment of these facilities but the County feels very strongly that it should have some degree of control as to the placement of these facilities, their locations with respect to traveled rights-of-way and the hazards they may present to the travelling public, not to mention the aesthetic concerns that enumerable objects within the rights-of-way can cause.

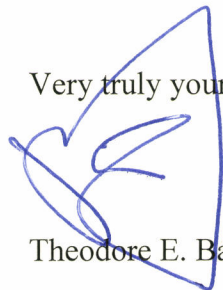
In addition, local zoning should not be pre-empted by a Federal regulation particularly when rights-of-way are located on private properties. The provisions of the New Jersey Land Use Act, N.J.S.A. 40:55D-1 et. seq. would nonetheless remain applicable with regard to applications to install telecommunications towers, poles or other facilities in rights-of-way that are located on private property. There are height restrictions, set back restrictions and the

applications for such development are generally submitted by either owners or prospective owners (through a contract or other written understanding with the owner) in order to give standing to applicants to develop on private property (see definition of "Development", N.J.S.A. 40:55-4) The FCC's proposal to eliminate or restrict local control could very well pre-empt zoning altogether and this raises Fifth Amendment due process taking concerns with respect to private property. We respectfully submit that the Commission should be mindful of the fact that rights-of-way easements enjoyed by the public are located primarily on private properties.

We feel that these concerns are meaningful and genuine and that the Commission should be careful to consider local interests and property rights in connection with its desire to facilitate wire line broadband deployment. Wire line broadband deployment can and should be encouraged to assist its deployment at the local levels and, in particularly, in the underserved areas of our communities. However, to the extent that this Notice of Inquiry could lead to a restriction of local prerogatives, interests and control which would actually undermine and reduce the deployment of hardwired wire line telecommunication services, this inquiry could actually result in deployment of less desirable and potentially higher cost services that do not meet the needs of our communities to preserve our opportunity for growth, educational opportunities and connectedness as is enjoyed in other parts of the country. Therefore, we urge the Commission to be mindful of these issues and to distinguish between the deployment of broadband through wireless as opposed to wire line because the impacts on communities that have been historically underserved by providers could actually leave these communities further behind as opposed to actually improving access to high speed telecommunications. Both

universal and comparatively equal service should be fostered and encouraged by whatever means possible and to that extent, we support the Commission's involvement to bring about these improvements. However, to the extent that local control and concerns are either limited or pre-empted altogether, the pre-emption of local prerogatives could actually have the opposite effect and harm the educational needs and interests of our communities, our economic growth and retention of businesses, reduce ratable values among other deleterious effects. Therefore, we urge the Board to examine this issue with caution and, in particular, to distinguish between hardwired facilities in public rights-of way as opposed to wireless facilities such as distributed area systems (DAS). While these may be beneficial secondary communication facilities, more rural and poor areas of the country should not be left to utilize wireless services when wire line services are what is truly needed to facilitate growth, economic retention, sustaining property values and educational opportunities in these regions. The adverse impact of such a digital divide should be readily apparent.

Very truly yours,



Theodore E. Baker

TEB/mrr

cc: Cumberland County Freeholders
Ken Mecouch, County Administrator
Kim Wood, Deputy Administrator
Robert Brewer, Planning Director